



Response to PRP Comments
on
Arkwood, Inc. Fencing Order

1. Comment

On Page 2 in the last paragraph the acreage involved is actually 18.07 acres;

Response

18.07 may be the correct acreage of the site. However, 18.07 acres is not substantially different from the "approximately 20 acres" reported in the Order.

2. Comment

On Page 2 in the third line from the bottom the date MMI operated facility should be 1-1-85 instead of "late 1984";

Response

MMI's lease expired on 1-1-85, however MMIs 104(e) response indicated that they operated the facility through 1984, not 1985.

3. Comment

On Page 3 at line 2, Hallie C. Ormond did not commence operation of the plant.

Response

Mr. Ormond stated in his 104(e) response, that operation of the plant began in the early 1960's. Since the facility was not leased to Arkwood, Inc. until 1965, it was assumed that Ormond, as landowner, initiated any operations prior to that date.

4. Comment

Page 3, line 3, Hallie C. Ormond did not form the Arkansas corporation known as Arkwood, Inc.;

Response

MMI's 104(e) response indicated that Hallie as well as two daughters and Grisham formed the corporation. Records of incorporation also indicate that Ormond was the primary stockholder at time of corporation.

5. Comment

Page 3, line 5, the date that MMI assigned the assets of Arkwood, Inc. should be 1973 instead of 1974.

Response

The commenter is correct, the date should be 1973, as is stated on page 4 of the Order.

6. Comment

Page 3, line 5, MMI did not purchase the assets of Arkwood, Inc., but rather traded MMI stock for all the stock of Arkwood, Inc.,

Response

MMI's financial records for 1973 indicate that "85,500 shares of the Registrant's (MMI) stock was issued to Charles C. (Bud) Grisham and Mary Joe Grisham... in exchange for all assets of Arkwood, Inc."

7. Comment

Page 4, line 3, C.C. Grisham was not general plant manager but was CEO for the Arkwood, Inc., facility prior to and after the acquisition of the Arkwood plant by MMI.

Response

We agree that Grisham was CEO for Arkwood, Inc. However conversations between the RPM and Mr. Grisham and Bob Barker, as well as the RI/FS Work Plan indicate that Mr. Grisham was also involved in the day to day operation of the plant before and after its operation by Arkwood, Inc.

8. Comment

Page 4, line 10, should reflect that the site was not included on the NPL in the July 1987 update.

Response

Describing a non-action in the Order is inappropriate. Proposal to the NPL is the latest EPA action regarding NPL status.

9. Comment

Page 4, line 11, "approximately 660 person" is an incorrect figure.

Response

We acknowledge that the figure is an estimate as is indicated by "approximately". This figure was obtained by counting residences indicated on a topo sheet and multiplying this number by 3.8. This methodology is described in the HRS Users manual which was published in the Federal Register.

17. Comment

On Page 4 at the last two lines on the page the terms "not detected to 5.6" and "not detected to 97" appear. What is the meaning of these terms?

Response

These phases indicate that contaminant levels in samples tested ranged from below the detection limit to 5.6 or 96 ppm.

11. Comment

At Page 5, line 13, the phrase "the sinkhole contains approximately 4 feet" appears. What is the meaning of this phrase and what are the facts upon which it is based?

Response

This statement that approximately 4 feet of a multiple-phased liquid is found in the sinkhole, is based on a boring drilled into the sinkhole by MMI's consultant Geraghty & Miller, Inc. The exact dimensions of the sinkhole have not been determined.

12. Comment

Page 5 at the bottom of the page in Paragraph (H) there is a statement that children have been reported to play in and around the waters emerging from Cricket Spring. What is the source of this information?

Response

The source of this information is a conversation with a resident of Cricket Road described in the Community Relations Plan for the Arkwood site.

13. Comment

On Page 8, Paragraph 6 (a) requires the Respondents appoint a facility coordinator. If we desire a certain facility coordinator and MMI desires a different person how is this resolved?

Response

The terms of the Order have been satisfied.

14. Comment

On Page 9, Paragraph (B) requires signs to be posted in the vicinity of Cricket Spring. How should this be done if the PRP's do not own the land?

Response

The terms of the Order have been satisfied.

15. Comment

On Page 11 at Paragraph 8(a) the first line says "Respondents agree". What is the meaning of this phrase?

Response

The Order should indicate that Respondents shall preserve rather than "agree" to preserve.

16. Comment

We object to the use of data which up to 5 years old in arriving at the determination made in this Order. In this objection we are referring to the levels of PCP parts per million set forth in the Order beginning at Page 4. We object to these figures being used in the determination process rather than the current figures present on the site now or even in the last twelve months.

Response

The PCP data cited on page 4 and 5 of the Order summarizes the most extensive body of data available for all media (i.e. spring, ground and surface waters). The most recent analyses of Cricket Spring (5.7 ppm) and local wells (N.D.) are within the ranges reported in the Order. In addition, this data is supplemented in the Order by the most recent data available for on-site waste areas. Further, even if the most "current" figures were utilized exclusively in the Order, the Conclusions of Law and Determinations made in the Order would remain the same.

17. Comment

We object to the conclusion of law Number 4(b) that C.C. Grisham is a "person" as defined in Section 101.

Response

The statute defines person as an individual and Mr. Grisham is an individual.

18. Comment

We object to the conclusion of law stated in Paragraph 4(e) that C.C. Grisham is a responsible party under Section 107(a).

Response

Mr. Grisham was a former officer of Arkwood, Inc., was involved in the daily operation of the facility and was a major stockholder of the corporation. The Statute and EPA policy state that anyone involved in making operational decisions may be a responsible person and liable for any costs resulting from the release of a hazardous substance from a facility.

19. Comment

We object to, and deny the correctness of, the regional administrator's determination that the "site may present an imminent and substantial endangerment to the public health or welfare or the environment within the meaning of Section 106(a).

Response

The determination of imminent and substantial endangerment is more completely described in the Endangerment Assessment signed by the Regional Administrator in March, 1986. The endangerment posed by the site is summarized in the following paragraphs obtained from this assessment.

"A release of hazardous substances from the site has already been identified in the groundwater discharging from Cricket Spring. Although this spring is not currently used for drinking water it is reported to have been used as a water supply for a local resident during the early 1980s. The townspeople of Omaha as well as residents outside the local water district use groundwater as their sole source of drinking water. The potential for contamination of additional groundwater supplies is significant due the nature of karst, or conduit flow hydrology.

The release or threat of release of hazardous substances identified at the Arkwood, Inc., site and in the waters of Cricket Spring and its drainage, as well as the significant potential for contamination of local groundwater supplies represent an imminent and substantial endangerment to public health or welfare or the environment."